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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

11 JAMES M. KINDER, ) Lead Case No. 07 CV 2132 DMS (AJB)  
12 ) [Consolidated with 07CV2226 DMS (AJB)]  
13 Plaintiff, )  
14 v. )  
15 HARRAH'S ENTERTAINMENT, Inc. and )  
16 DOES 1 through 100, inclusive, )  
17 Defendants. )  
18 )  
19 )  
Date: April 25, 2008  
Time: 1:30 p.m.  
Courtroom: 10

20 I, CHAD AUSTIN, declare as follows:

21       1. I am an attorney at law duly licensed and admitted to practice before all courts of  
22 the State of California, the United States District Court, Southern District of California and the  
23 Ninth Circuit Court of Appeals and have been attorney of record for Plaintiff in this matter since  
24 its inception. If called as a witness, I could and would competently testify to all facts within my  
25 personal knowledge except where stated on information and belief.  
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1           2.     This declaration is submitted in support of Plaintiff JAMES M. KINDER's  
2 opposition to Defendant's motion to declare him a vexatious litigant and to require him to post a  
3 bond. The matters stated in this declaration are true, of my own personal knowledge.  
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5           3.     Attached hereto as Exhibit G is a true and correct copy of a ruling from now  
6 federal District Judge Janis Sammartino, in which she found that Plaintiff's action in *Kinder v.*  
7 *Adecco*, San Diego Superior Court Case No. GIC882000, was not commenced in violation of the  
8 pre-filing order referenced Defendant in the instant motion in that he was represented by counsel.  
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11           4.     Telcordia ® has been in existence under different corporate names since 1984.  
12       One of the many software programs available from Telcordia ® is the Telcordia ® Telemarketing  
13       Data Source (TTDS) Version 3.0 which, for an annual cost of only \$690.00, enables any  
14       telemarketer, collection agency or any other company that uses Automatic Telephone Dialing  
15       Systems to download the basic database of proscribed numbers which, when incorporated with a  
16       reprogramming of their autodialer, enables their autodialer to suppress (not dial) calls to category  
17       specific area codes and prefixes (such as prefixes dedicated to pager numbers and cell phones).  
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21           5.     This technology is readily available to anyone in the telemarketing and collection  
22       agency industries and the failure to subscribe to the TTDS places any company in the  
23       telemarketing or collection industries at great risk of illegally calling proscribed landline  
24       numbers, cellular telephone numbers and/or paging numbers, i.e., numbers assigned to a paging  
25       service such as Plaintiff's number 619-999-9999.  
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1           6.       Enclosed as Exhibit H is a Telcordia ® Telemarketing Data Source (TDS)  
2 printout which, as is explained in paragraph 2 of said printout, "If your company has call center  
3 operations...[and] needs to suppress wireless or pager number from a database application, or  
4 other similar needs, you'll find the Telemarketing Data Source a valuable tool for your business."  
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7           7.       Enclosed as Exhibit I is a Telcordia ® sample printout of California area codes  
8 and prefixes of numbers assigned to a paging service to which Automatic Telephone Dialing  
9 System initiated calls cannot be made lawfully. Please note that this is a *sample only* which is  
10 available on the Telcordia ® website and is not intended to nor does it include all of the area  
11 codes and prefixes in California. Specifically, in this sample only, the area code 619 and the  
12 prefix 999 are not included because this is a free sample only and is intended for the limited  
13 purpose of acquainting a potential Telcordia ® customer with the general format of its product.  
14 However, if one purchases the Telemarketing Data Source from Telcordia ®, all area codes and  
15 prefixes for the requested target market are included, including Plaintiff's number 619-999-9999.  
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1           8.       On or about May 16, 2007, I logged on to [www.telcordia.com](http://www.telcordia.com) (the website for  
2 Telcordia ®) and printed true and correct copies of the materials found therein, which  
3 materials comprise Exhibits H and I, attached hereto.

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6           I declare under penalty of perjury under the laws of the State of California and the laws of  
7 the United States that the foregoing is true and correct and that this declaration was executed by  
8 me on April 11, 2008 in San Diego, California.

9           DATED: April 11, 2008

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11           By: /s/ Chad Austin

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13           CHAD AUSTIN, Esq., Attorney for  
14 Plaintiff, JAMES M. KINDER  
15 Email: [chadaustin@cox.net](mailto:chadaustin@cox.net)

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